

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

KEITH BOX,)
)
Plaintiff,)
)
vs.) Case No. 1:05CV6 HEA
)
CHUCK DWYER, et al.,,)
)
Defendants.)

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's Motion for Reconsideration of Granting of Summary Judgment for Defendants Hakala and CMS, [Doc. # 39], and plaintiff's Motion for Examination, [Doc. # 40]. Defendants have filed a written opposition to the motion for reconsideration. For the reasons set forth below, the motions are denied.

Plaintiff asks the Court to reconsider its Order of August 2, 2005 wherein the Court entered summary judgment in favor of defendants Hakala, CMS and Stanley.¹ In its Memorandum and Order, this Court articulated the basis for finding that there were no disputes as to any material facts with respect to the cause of action brought

¹ Plaintiff does not seek reconsideration with respect to the grant of summary judgment as to defendant Phyllis Stanley.

against these defendants. Plaintiff, in this current motion, reiterates the same arguments he made in opposition to the motion for summary judgment. Plaintiff presents nothing new in this current motion; he merely reiterates his disagreement with the medical care he is receiving. As this Court set forth in its August 2, 2005 Order, a cause of action for deliberate indifference to a serious medical need does not arise through a disagreement the plaintiff may have with his treatment. *See Dulany v. Carnahan*, 132 F.3d 1234, 1239 (8th Cir.1997) (prison doctors remain free to exercise their independent medical judgment). Plaintiff has presented nothing new which establishes that the Memorandum and Order of August 2, 2005 was based on a mistake of law or fact.²

Plaintiff also asks this Court to order that he be examined by an “Independent Physician who has no Interest in the outcome of this Civil Case and that will give a true Evaluation of plaintiff’s present medical condition.” As set forth in the August 2, 2005 Order, plaintiff has had x-rays performed by non-defendant professionals who have conveyed their opinions to the defendant physicians. Plaintiff continues to argue that he is not receiving proper medical attention, however, his medical record clearly establishes that his requests for medical attention are answered and he

² Defendants’ opposition points out a clarification of plaintiff’s medical record regarding plaintiff’s treatment and a request for treatment made by defendant Hakala. This Court notes the clarification as set forth by defendants and incorporates the clarification herein.

has been and continues to be treated by medical personnel. Plaintiff's motion for examination is therefore denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's Motion for Reconsideration, [Doc. # 39] is denied.

IT IS FURTHER ORDERED that plaintiff's Motion for Examination, [Doc. # 40], is denied.

Dated this 26th day of August, 2005.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE